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September 16, 2013

VIA ELECTRONIC & US MAIL

Ms. Stephanie Vaughn ATTN: Lower Passaic River Remedial Project Manager Emergency and Remedial Response Division U.S. EPA, Region 2 290 Broadway, 19th Floor New York, New York 10007

Re: Monthly Progress Report No. 12 – August 2013 Lower Passaic River Study Area (LPRSA) River Mile 10.9 Removal Action CERCLA Docket No. 02-2012-2015

Dear Ms. Vaughn:

de maximis, inc. is submitting this Monthly Progress Report for the above-captioned project on behalf of the Cooperating Parties Group (CPG) pursuant to the Administrative Settlement Agreement and Order on Consent for Removal Action (Settlement Agreement or AOC). The Progress Report satisfies the reporting requirements of Paragraph 28 of the River Mile (RM) 10.9 Settlement Agreement.

(a) Actions which have been taken to comply with this Settlement Agreement during the month of August, 2013.

Meetings/Conference Calls

- On August 1, CPG met with EPA at the Clean Earth Dredging Technology (CEDT) Kearny location and Riverside Park in Lyndhurst to review contractor readiness.
- On August 6, CPG met with all RM 10.9 Removal Action contractors and EPA to review
 the prior week's activities, to plan for the upcoming week and to review water quality
 monitoring procedures when a turbidity trigger is experienced.
- On August 7, EPA hosted a press event at Bergen County's Riverside Park in Lyndhurst to discuss the beginning of the RM 10.9 Removal Action.
- On August 13, CPG met with all RM 10.9 Removal Action contractors and EPA to review the prior week's activities and to plan for the upcoming week.
- On August 20, CPG met with all RM 10.9 Removal Action contractors and EPA to review the prior week's activities and to plan for the upcoming week.
- On August 21, NJDEP and EPA representatives toured the Removal Action site in Lyndhurst.
- On August 21, CPG held a teleconference with Hudson and Essex County bridge operators to discuss the need for continuing mechanical and electrical contractor support of the bridge openings.
- On August 27, CPG met with all RM 10.9 Removal Action contractors and EPA to review the prior week's activities and to plan for the upcoming week.



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Correspondence

- On August 1, CPG received a "Revocable Dredging License" (i.e., Tidelands License) from the State of New Jersey.
- On August 1, CPG and EPA discussed the impact of equipment unavailability on the Perimeter Air Monitoring Plan (PAMP) and how to interpret EPA's newly proposed turbidity triggers.
- On August 1, EPA provided verbal authorization to begin dredging once the silt curtains were completely installed.
- On August 1, CPG asked for written authorization to begin dredging and written clarification as to the turbidity triggers that are to be implemented during dredging.
- On August 1, CPG made arrangements with Hudson, Essex and Bergen Counties to reimburse their bridge operators for overtime required to support the project's bridge opening schedule.
- On August 1, EPA provided conditional approval of the Final Design Report excepting Section 7 on the Long Term Monitoring Plan, and authorized dredging to begin on August 2 in accordance with that aspect of the design.
- On August 2, CPG obtained additional air monitoring equipment for an additional monitoring station required by EPA.
- On August 2, EPA granted permission to postpone suspended solids sample collection during the first 48 hours of dredging to provide adequate time for monitors to collect other aqueous samples as required by the Water Quality Monitoring Plan (WQMP).
- On August 2, CPG was notified by Amtrak that unscheduled maintenance at the Amtrak Dock Bridge was going to prevent barge and tug movement under it until at least August 5. CPG notified EPA.
- On August 4, EPA commented on CPG's proposed www.rm109.com website reports. The reports were revised from August 5 to August 6, and posted on August 7.
- On August 5, operators of the Amtrak Dock Bridge notified CPG that the repair of that bridge could take until August 7 to complete.
- On August 5, CPG notified EPA and other stakeholders that due to the Amtrak Dock Bridge repairs, the ability to move additional equipment up river and a full scow down river was going to be delayed.
- On August 5, CPG continued discussions with Hudson and Essex Counties to determine
 if contractors to the Counties were going to support additional openings of the Bridge
 Street Bridge prior to the new motors being installed and other safety-related repairs
 being completed.
- On August 6, EPA submitted comments on CPG's draft Water Column Monitoring QAPP Addendum A Supplement.
- On August 6, Amtrak notified CPG that the repairs of the Amtrak Dock Bridge were going to be completed by 18:00 hours on August 6.



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- On August 6, Conti Construction notified CPG contractors that their work on the Hackensack River could prevent barge traffic from travelling to and from the Clean Earth facility.
- On August 6, Hudson and Essex Counties notified CPG that Bridge Street Bridge would not be able to be opened without the support of a mechanical contractor, and there was neither budget nor plans for them to call in their mechanical or electrical contractors to support CPG's requested nighttime bridge openings. CPG requested that the Counties' contractors still be called in to support that evening's scheduled opening while CPG negotiated a way to provide ongoing support. The County did not comply and the evening's planned transit was cancelled.
- On August 6, Hudson County informed CPG that BSB would remain out of service for 2 weeks while needed repairs were being completed.
- On August 6, CPG notified EPA of the current status of BSB and the inability to continue the Removal Action until the bridges would again open.
- On August 7, EPA notified CPG that one of its mobile air monitors had a loose connector that needed to be replaced; CPG repaired it prior to resumption of dredging.
- On August 7, CPG wired funds to a Hudson County escrow account to be used for contractor support during CPG-requested bridge openings.
- On August 7, Hudson County prepared a Change Order for County Freeholder consideration that would allow the CPG funds to be used to support bridge openings.
- On August 7, Hudson County notified CPG that new motors would be installed at BSB starting 9 AM on August 13 and would make BSB unavailable for marine openings until after work was completed on August 15.
- On August 8, CPG notified bridge operators and EPA of a revised barge movement schedule that would allow movement of equipment until the scheduled BSB outage on August 13.
- On August 8, Hudson County Freeholders approved a resolution allowing the use of mechanical and electrical contractors to support the opening of BSB before all BSB repairs could be completed.
- On August 9, EPA recommended a format to CPG for weekly reporting of turbidity data to EPA and its partner agencies.
- On August 9, CPG provided an update to EPA on the movement of barges up and down the Passaic River as well as BSB operational status.
- On August 9, EPA provided additional comments to CPG on the Final Design Report, and requested that CPG initiate a previously postponed field study to confirm the correlation between Suspended Solids and Turbidity.
- On August 9, EPA discussed with CPG a plan to accept survey results for the Removal Area as each dredge section is completed. EPA also stated that it did not want the project to carry into 2014.
- On August 9, EPA asked CPG when week 2 of the Perimeter Air Monitoring Plan (PAMP) would start.

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- On August 10 CPG notified EPA of the anticipated schedule for beginning to ship stabilized sediment from Clean Earth facility to the Clean Harbors Oklahoma landfill.
- On August 10, EPA asked CPG for an explanation as to why some of the turbidity monitoring buoys regularly broadcast higher turbidity values than the others.
- On August 11, CPG notified EPA of the planned activities during the anticipated BSB outage.
- On August 11, EPA clarified when it expected CPG to initiate week 2 of the Perimeter Air Monitoring Plan (PAMP) analytical schedule.
- On August 12, CPG discussed with EPA that there is natural variability in turbidity between the monitoring stations that is independent of dredging, and that there could be several reasons including monitoring station location in the channel, tides, river flow and the presence of debris and solids typically found in the river, none of which is related to dredging.
- On August 12, CPG uploaded to EPA's LPR Sharepoint site revisions to the Final Design, CHASP, PAMP and WQMP, and provided EPA by email RLSO versions of the same documents.
- On August 13, CPG submitted for EPA review a production report and environmental monitoring reports for the <u>www.rm109.com</u> website; EPA comments and suggestions were incorporated, and the reports were posted.
- On August 14, CPG issued to bridge operators and the EPA a new barge movement schedule for resumption of activities once BSB was returned to service on August 15.
- On August 15, CPG revised the barge movement schedule to accommodate an additional opening, and reissued it to EPA and the bridge operators.
- On August 15, CPG requested and received permission from EPA to relocate the H₂S monitor from Park Monitoring Station (PMS) #1 to the Weather Station.
- On August 15, CPG notified EPA about problems with Turbidity Monitoring Buoy #1 and plans to repair it temporarily with components from mobile Monitoring Buoy #5 until the malfunctioning components could be repaired and replaced.
- On August 16, CPG was informed by Conti Construction that their construction activity on the Hackensack River would block the planned transit of CPG barges on August 17.
 CPG tug operators negotiated for Conti to modify their schedule and allow the planned movement.
- On August 17, CPG provided EPA and the bridge operators a revised barge movement schedule that reflected shorter transit times on the Passaic River.
- On August 19, CPG informed EPA that the weather station was temporarily out of service because of a blown fuse, and that it was being repaired.
- On August 20, CPG asked EPA if sediment cores from the RM 10.9 pore water studies could be disposed.
- On August 20, EPA requested that CPG repair a sampling port on the mobile air monitor; CPG repaired it that day.
- On August 20, CPG submitted and EPA approved a weekly production report and environmental monitoring reports for the www.rm109.com weekly production report and environmental monitoring reports for the www.rm109.com weekly production report and

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- On August 20, EPA provided CPG with additional comments on the Final Design Report.
- On August 20, EPA inquired as to the cause of elevated turbidity levels during the prior week at some of the monitoring buoys. CPG responded that the high turbidity levels continue to be associated with natural variability and debris most likely associated with the lunar tide cycles.
- On August 20, EPA agreed with a plan to move the air monitor PMS#2 to its planned northern location once dredging is completed south of the No Dredge Zone.
- On August 20, CPG provided EPA with estimated sediment volumes that each dredge zone was expected to yield per the dredger's calculations.
- On August 21, EPA asked CPG to reconcile the range of expected sediment volumes calculated by the dredger with volumes included in the Design Report.
- On August 21, EPA asked CPG not to move the silt curtains from south to north of the No Dredge Zone until after EPA approves the final survey of the south area.
- On August 21, Hudson County informed CPG that they expected all mechanical repairs of their bridges would be completed as early as August 22.
- On August 21, CPG provided EPA and bridge operators an updated barge transit schedule.
- On August 22, CPG issued minutes from the August 21 weekly review meeting.
- On August 22, EPA inquired as to the status of the QAPP Addendum A revisions.
- On August 22, EPA provided CPG with the name and contact information for the person who would be reviewing bathymetric survey results to determine acceptability of the dredged areas.
- On August 23, Hudson County informed CPG that they felt they no longer required the support of the electrical contractor that CPG had previously provided funding for to support the bridge openings.
- On August 23, EPA asked CPG to address questions raised by NJDEP during their site tour on August 21 about the movement of partially closed buckets from the dredge area to the scow.
- On August 26, CPG provided a technical memorandum to EPA addressing NJDEP's concerns.
- On August 26, CPG notified the Jersey City Municipal Utility Authority that dredging operations were approaching the No Dredge Zone.
- On August 26, CPG provided EPA with RLSO versions of the revised Final Design Report pages responding to the August 20 EPA comments.
- On August 27, EPA requested that CPG develop a plan for managing any hard pan areas in the Removal Action zone where a 2 foot sediment cut was not possible.
- On August 27, EPA requested that CPG expand the cc list on the monthly Progress Reports.
- On August 27, Hudson County notified CPG that their budget with their original electrical contractor was exhausted and they would no longer be able to support bridge openings, or to open the bridges for that evening's barge transit.



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- On August 27, CPG requested that Hudson County use their new contractors to support
 the bridge openings, and authorized that an escrow account that CPG had set up to
 cover County overtime could also be used for these contractors; Hudson County agreed
 and CPG reiterated to all bridge operators that the evening's schedule of barge
 movements was still operative.
- On August 27, EPA approved the RLSO versions of the Final Design Report and authorized that the final versions be posted to EPA's LPR Sharepoint site; CPG posted the final reports on August 28.
- On August 27, CPG submitted and EPA approved a weekly production report and environmental monitoring reports for the www.rm109.com website.
- On August 28, EPA asked for and received clarifications on how to interpret the tables of tide specific turbidity data, as well as clarifications on how daily averages are calculated for real time monitoring data in environmental monitoring reports posted to the website.
- On August 28, Clean Harbors reported that sediment was beginning to be received at the Oklahoma landfill, and that some of the sediment contained water.
- On August 29, CPG provided EPA survey results showing the post dredge surface of Dredge Area 1, and a request to redeploy the silt curtain around Area 2 once several high spots noted on that survey were re-dredged. EPA approved the plan and requested a final survey be forwarded once the high spots have been re-dredged.
- On August 29, the electrical contractor to the Hudson County bridge authority requested
 a direct contract with CPG to support BSB openings else it would not support additional
 openings. CPG notified Hudson County who then indicated it was enforcing its contract
 with its electrical and mechanical contractors to ensure that they continue to support the
 BSB openings, and also asked for and received confirmation that CPG would reimburse
 the county for these contractors to provide this service at their negotiated County normal
 rates.
- On August 29, the Mayor of Harrison expressed concerns to CPG about the early September schedule for bridge openings that would have bridges opening up during the early evening and potentially disrupting road traffic. CPG replied that the schedule is contingent on tides, and that the schedule could not be modified. CPG updated EPA on this conversation.
- On August 29, CPG provided EPA its response to comments on the Water Quality Monitoring QAPP Addendum A Supplement.
- On August 30, CPG provided EPA the final survey results for Dredge Area 1 showing that all high spots have been removed.
- On August 30, CPG issued minutes of the August 27 weekly review meeting.
- On August 30, CPG issued to bridge operators and EPA an updated barge movement schedule.
- On August 30, CPG and EPA discussed possible modifications to the air monitoring schedule.

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 On August 31, Hudson County informed CPG of a significant mechanical failure at BSB that would take it out of service for the foreseeable future. CPG notified EPA's oversight contractor.

Work

- On August 1, silt curtain deployment continued; it was completed on August 2.
- On August 2, CPG calibrated, tested and confirmed the operability of the GPS system for the dredge unit controls.
- On August 3, dredging began at 9:45 AM.
- During the month of August, dredging occurred on 22 days during which an approximate total of 7800 cubic yards of sediment was removed. No dredging occurred on the month's 4 Sundays or during at least 3 days when bridge outages on the Passaic River prevented empty scows from reaching the removal area.
- On August 9, sediment began to be dewatered and stabilized at the Clean Earth facility.
- During the month of August, dewatering and stabilization of RM 10.9 sediment occurred on 10 days during which approximately 9200 tons of stabilized sediment were generated and 582,000 gallons of water were removed.
- On August 14, stabilized sediment was loaded on intermodal containers and transferred to the Brill Rail Yard to begin the journey to Oklahoma.
- During the month of August, 328 containers of stabilized sediment were shipped to the Clean Harbors landfill in Oklahoma.
- On August 15, malfunctioning components in turbidity monitoring buoy #1 were replaced with components from the mobile monitoring buoy.
- On August 16, CPG began to receive shipments of the AquaGate product that will be used as the active layer in the engineered cap.
- On August 19, the H₂S monitor associated with Park Monitoring Station #1 was moved to the Weather Station location.
- On August 20, the City of Baltimore approved the discharge into its sewers by Clean Harbors of treated water from the RM 10.9 Removal Action sediment barges.
- During the month of August, approximately 488,000 gallons of water from the dredge barges were shipped to the Clean Harbors facility in Baltimore.
- On August 28 and 29, CPG performed bathymetric surveys of the Dredge Area 1.
- Throughout August, CPG continued to offer assistance and resources to Hudson and Essex Counties to facilitate the regular opening of their bridges that cross the Passaic River.

(b) Results of Sampling and Tests

- On August 2, CPG submitted to EPA water quality data summarizing COPC concentrations in the water column during the June 2013 pre-dredge monitoring period.
- On August 17, CPG provided EPA turbidity data organized by tide cycles for the first 2 weeks of dredging activity.

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- On August 19, CPG provided EPA validated data covering results from the pre-dredge baseline monitoring water quality study.
- On August 21, CPG provided EPA un-validated air monitoring data for the COPC's covering the pre-dredge period and the first week of dredging.
- On August 27, CPG provided EPA turbidity data and COPC data associated with the prior 2 weeks of dredging activity.

(c) Work planned for the next two months with schedules relating to the overall project schedule for design completion and construction

- When Bridge Street Bridge can be opened, CPG will continue dredging, stabilization and disposal activities.
- CPG will continue to implement the approved WQMP and PAMP.
- CPG will continue to seek modifications to the WQMP and PAMP as data indicates that dredging is having no impact on air and water quality.
- CPG will respond to anticipated comments on the draft LTMMP and submit a revised plan for EPA review and approval.
- CPG will continue to provide regular and as-needed updates to river users about barge movements and other important project milestones.
- CPG will continue to monitor bridge operability issues.
- CPG will, pending EPA's approval, begin transport of cap material by barge from South Amboy to the RM 10.9 Removal Area and begin laying the cap.

(d) <u>Problems encountered and anticipated problems, actual or anticipated delays, and solutions developed and implemented to address actual or anticipated problems or delays</u>

- There is still no resolution concerning the Tierra/Maxus/Occidental (TMO) UAO and their participation in the RM 10.9 Removal Action. As documented in CPG's correspondence of July 27, 2012 and September 7, 2012, the offer from TMO was inadequate and provided no meaningful value to the RM 10.9 Removal Action.
- In prior months, NJDEP questioned changes in flood potential associated with the RM 10.9 cap, as well as CPG's ability to manage re-suspension of sediment in accordance with NJ regulations. NJDEP has stated that it will not issue a final WDP equivalent until these questions are resolved. CPG utilized the EPA-approved Delft3D model for the RM10.9 Removal Area and clearly demonstrated to the NJDEP that there will be no significant changes in RM 10.9 Removal Area surface roughness and that any change to surface roughness will have negligible impacts on upstream and downstream flood potential. CPG also provided NJDEP additional details on its marine contractor's planned silt curtain implementation and discussed how it will provide satisfactory controls on re-suspension. Because there have been no questions from NJDEP on these matters since CPG's May 22 submittal, and because by the end of June more than the 20 business days that NJDEP indicated was necessary to review those submittals

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has passed, CPG believes that the provided information fulfilled most conditions for approval raised by NJDEP. The last condition stated by NJDEP for approval of the Waterfront Development Permit equivalent is EPA approval of the Final Design Report.

- The inoperability of the Bridge Street Bridge due to Hurricane Sandy damage delayed the start of the Removal Action because equipment could not be mobilized up river until that bridge was operational. CPG informed EPA of a Force Majeure condition by phone on June 24 and in writing on June 29 as required by the AOC. CPG and its contractors have worked with the Counties to continue to resolve the BSB operational issues and have agreed to provide funds to the three counties to support operator overtime. The CPG continued throughout August to monitor the operability of all bridges and keep EPA informed.
- The CPG strongly disagrees with the EPA's July 15 letter denying the Force Majeure condition outlined in CPG's June 29, 2013. EPA's rationale for denial is inconsistent with terms and definitions in the AOC. Both the inoperability of the Bridge Street Bridge due to Hurricane Sandy and the repeated delays in the repaired motors being shipped and reinstalled have been and continue to be clearly beyond the control of the CPG. Moreover, Hudson and Essex Counties have failed to meet their obligations under Federal Regulations to properly maintain and operate their bridges and to provide proper notice of the status of their bridges to US Coast Guard, mariners and the general public. Finally, the CPG is voluntarily providing funds to the Counties to operate the bridges with no regulatory requirement to do so. As noted above it is the Counties obligation to ensure that their bridges are operating and ready to open upon notice. The CPG has addressed this issue in its July 31 letter to EPA.
- A significant mechanical failure that occurred on August 31 at BSB has resulted in another Force Majeure condition that has prevented any barge movement since then and no dredging since September 5. The CPG provided initial notice to EPA's oversight contractor on August 31 and provided additional information on September 1 to the EPA. On September 5, the CPG submitted a Force Majeure letter. On September 3, CPG notified the US Coast Guard of the situation and requested that the USCG use its authority to direct that the bridge be opened so that marine traffic can resume. As of September 16, the USCG has not made a determination on the BSB. Furthermore. Clean Earth (the stabilization facility) has notified CPG of another sediment project (750,00 cubic yards) from the USACE starting in late September until April 2014 and that it will not be able to process RM 10.9 sediment because of the NJDEP's AUD conditions which prevent Clean Earth from treating other sediment streams concurrently with RM 10.9 sediment.. An update to September 5 Force Majeure letter is being submitted indicating that the Removal Action cannot be completed until 2014 unless the EPA, its Partner Agencies (i.e., USACE and NJDEP) and the USCG can immediately decide and initiate several actions outlined in the letter.

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If you have any questions, please contact Bill Potter, Rob Law or me at (908) 735-9315.

Very truly yours,

de maximis, jnc.

Stan Kaczmarek, PE

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